NEW YORK MEDICO-LEGAL SOCIETY.

Stated Meeting, February 1, 1882.

CLARK BELL, Esq., President, in the chair.

Abstract of the Fourth Inaugural Address by Clark Bell, Esq., on assuming the Presidency of the Society.

Gentlemen:—The Medico-Legal Society has for some years engaged my careful thought, earnest labor, and its prosperity and success been worthy my constant endeavor.

When first called to its chair in the fall of 1872, though small in numbers, there were a few who so ably seconded my efforts that 148 new members were added to the roll the first year. The second year the roll numbered 348 names, and at the close of my third term the roll exceeded 400 names. If I understand correctly that sentiment within this Society which has resulted in my re-election after these six intervening years, it was that certain practical changes and reforms were believed to be needed for the welfare and prosperity of the science of medical jurisprudence, and the growth and importance of the Society, which it was hoped and believed I might be useful in introducing.

This Society has regarded it always its duty to take a deep interest in matters of

LEGISLATION,

when it affected questions connected with science. The most noticeable and urgent subjects which have recently engaged its attention are:

1. In regard to experts, expert testimony, and the proper regulation and conduct of the defence of insanity in criminal trials.

2. Proposed modifications and reforms in the law regarding the office of coroner, and suitable provisions for preliminary proceedings in criminal cases in lieu of those now conducted by coroners.

3. The question of health in our public schools, and the proper medical supervision over all public schools by competent medical men.

The science of medical jurisprudence is receiving increasing attention, not alone from the professions represented in this body, but on account of recent events the public mind has been called to some remarkable phases of our present legal status in a most extraordinary manner.

The assassination of President Garfield, the extraordinary spectacle and scenes at the trial of the assassin, as delineated by the public press, have aroused popular interest and attention to the defects of the present system of "expert testimony" and the defence of insanity, which cannot fail to be useful for beneficent changes and legislation on these all-important and widely misunderstood subjects. This trial has created a profound sensation throughout the civilized world, while the conduct of the trial and the evidence of the medical witnesses have, as it seems to me, demonstrated the necessity of a change in the administration of justice in criminal trials as one of the most pressing needs of the hour.

The records of this Society will show its past relations to these exciting questions. Both legal and medical gentlemen have well defined existing laws and their administration here, and the true tests to be applied, to determine the question of insanity and responsibility in doubtful cases. The public execration and detestation of the crime of Guiteau extends now in so marked a degree to the prisoner, whose conduct on the trial has so intensified this sentiment in all minds, that it is hardly safe to regard the result as of any particular moment or force in the settlement of the question, further than furnishing an unanswerable reason for a substantial change in existing systems.

From a purely scientific point of view, little reliance can be placed upon the verdict of the jury empanelled in that case upon the question involved—insanity or responsibility,—if insanity was conceded. The verdict under the charge will receive general popular approval, now that the public mind will not listen to any extenuation of the crime or feel one spark of pity for the assassin. The questions still remain: Was Guiteau insane?—on which the jury do not pass—and, if insane, was he responsible for his acts?—which may or may not have been the opinion of the jury. It may be urged that the verdict, "guilty as indicted," as a logical sequence, is a finding that Guiteau was not insane; but under the

charge, if the jury believe him insane, yet with a sufficient knowledge in regard to the nature and consequences of his acts to discriminate between right and wrong regarding it, their verdict would be sustained by the courts.

It is a matter of profound regret, for the credit of the American name and the verdict of history, that we could not have had all doubt set at rest as to the mental condition and responsibility of this unfortunate wretch by such an examination and tests as would have been made in France or Germany by a Tardieu in his day, a Caspar, or either of their confreres, who are there called, not as the paid witness of either side, but as the scientific, educated, independent medical witness and sworn public official, in the higher name of science, of justice, and of law.

If the government had taken the authorized legal steps before the trial to inquire into the sanity of the assassin on the fatal day, by the usual inquisition, we might have come to an intelligent conclusion as to his mental condition; we certainly would have been spared on that inquisition the scenes that have scandalized the public mind upon the trial.

It is perfectly safe to say that this remarkable case will demonstrate irresistibly the necessity of adopting some system which will spare the country a repetition of these events that have excited the astonishment of our countrymen, and indeed of all thoughtful minds throughout the world.

Science in its Relations to Medical Jurisprudence.—Every educated physician is not a competent expert upon insanity or mental diseases, or on poisons, or indeed any question requiring expert evidence. A higher test than hitherto made should be placed on the question of who are experts, and who are qualified to testify when special knowledge is desired. The wiser men grow in science, the more certainly do they frequently come to the knowledge of how little they really know of subjects which the neophyte who has read a good deal fancies he understands fully, and about which he often knows little. The professional man should have the courage, the breadth, and the wisdom to say "I do not know" in doubtful cases, rather than to state what his idea is, and to make his ideas or theories or beliefs stand as evidence of a scientific fact. Much of what seems irreconcilable difference in the testimony of medical experts grows from a want of knowledge in the witness of the questions concerning which he swears, often positively.

It should be the laudable object of this Society to elevate the

standard of medical evidence, to define the true status of medical experts, and to adopt such tests as would prevent men from coming to the stand as experts, who had not the knowledge, experience, or qualification for the position.

Appeal.—The Medico-Legal Society of New York has voluntarily assumed the labor of organizing and maintaining a complete library of all accessible works upon medical jurisprudence, especially in the English, French, and German tongues.

This work, inaugurated in 1872, was creditably commenced, and it only remains to call the attention of members of the professions of law and medicine throughout the United States to the merits of this enterprise to insure its early completion.

There is besides this library only one collection in this country of any note—the library of the Surgeon-General's office at Washington—under the intelligent and enterprising management of Dr. J. S. Billings. This library is now by far the best, and aside from that of this Society, the only one in this country. It has been accumulated mainly since the year 1872.

The enormous value of such a collection to both professions, accessible for use, cannot be well overestimated. Such a library to be called complete should contain, besides all known works on the subject :

1. The proceedings of all the medical societies of the various States, because their proceedings contain, in many instances, papers and discussions of the highest value upon these topics, which can only be reached through these very published transactions.

2. The reports of the various asylums for the several States of the Union, as well as those of England and the continental countries, and the reports of legislative committees or State officials upon the subject of the insane, insane asylums, or kindred topics.

3. Those papers, pamphlets, or publications contributed by either profession, which, published by societies or individuals, are inaccessible to the student or the practitioner except through the aid of such a library.

This Society proposes to make it the duty of each member to contribute one volume each year to the library, or its equivalent in pamphlets. Contributions in money also will be received and invested by the Library Committee in volumes and works obtained by correspondence with all the dealers and librarians of the world.

If money is given, it will be expended for volumes on which the donor's name will be inscribed, and the annual statement of the committee will announce the names of all donors, both in cash and volumes, with the titles of such volumes and pamphlets as are contributed.

It is proposed that in case a contribution is made by a person not a member, but accepted by the Library Committee as a contributor, that such contributor shall have the right of access to the library for reference, under such rules and regulations as the Society shall, from time to time, establish.

The library is at present at the Mott Memorial Hall, through the courtesy of Dr. A. B. Mott.

The aims and claims of this enterprise are respectfully commended to the various librarians at home and abroad, who are invited to exchange works or pamphlets on these subjects for the publication of this Society, which can only thus be obtained.

The undersigned calls upon the public press of the country to aid this movement by publishing this appeal, so as to bring the work to the public notice.

Contributions or communications concerning the library can be made through any member of the Library Committee to Mr. R. S. Guernsey, Chairman of the Library Committee, 150 Broadway, or to Mr. Clark Bell, No. 128 Broadway, New York City.

The recommendations of the inaugural address, suggesting the appointment of various committees, were approved by the Society.

The following committees were authorized by the vote of the Society at its February meeting, in adopting certain recommendations of the inaugural address.

Committee on the Library.—R. S. Guernsey, Esq., Chairman, Wm. A Hammond, M.D., Fordyce Barker, M.D., Frank P. Foster, M.D., Hon. Elbridge T. Gerry, Hon. David Dudley Field, Hon. Geo. H. Yeaman.

Committee on Proposed Changes in Law Regarding Coroners.—Hon. D. C. Calvin, Chairman, Wooster Beach, M.D., J. G. Johnson, M.D., Prof. C. A. Doremus, Austin Abbott, Esq., A. B. Mott, M.D., Geo. M. Beard, M.D.

Committee on Proposed Changes in the Constitution and By-Laws, —Hon. B. A. Willis, Chairman, Wm. M. Fleming, M.D., Lewis A. Sayre, M.D., E. C. Spitzka, M.D., Gen. Geo. W. Palmer, Judge Meyer S. Isaacs, O. H. Palmer, Esq.

Committee on Plans for Increasing the Usefulness of the Society, and Best Methods of Work.—Wm A. Hammond, Chairman, J. Clarke Thomas, M.D., Stephen Smith, M.D., Jacob F. Miller, Esq., J. W. Wright, M.D., Clinton Wagner, M.D., Charles P. Crosby, Esq.

Committee on Sanitary Supervision of the Public Schools.—R. J. O'Sullivan, M.D., Chairman, Hon. Geo. H. Yeaman, Hon. A. G. Hull, Prof. R. Ogden Doremus, T. B. Wakeman, Esq., John A. Taylor, Esq., Ralph L. Parsons, M.D.

Stated Meeting, March 1, 1882.

CLARK BELL, Esq., President, in the chair.

The paper of the evening was read by Dr. WILLIAM A. HAMMOND, and was entitled "Reasoning mania: Its medical and medico-legal relations, with special reference to the case of Charles J. Guiteau."

[The paper was published in the January number of this JOURNAL.]

The Discussion.

Dr. R. L. PARSONS said that the form of insanity described by Dr. Hammond was well recognized by writers, and was on a basis equally strong with that of any other form of mental disease. He agreed with the reader of the paper that in every case of emotional insanity the intellect was also involved. The mind is a unit and its faculties interdependent. He said that cases of general paralysis often appeared at first to be cases of emotional insanity.

As regards motive, the speaker said that there were very few insane who were not governed more or less by motives, much as sane persons are. The government and order of asylums depend on this. They are not governed by the *same* motives as the sane however. The insane are, therefore, responsible, but in a narrow and peculiar sense.

With regard to the legal punishment of the insane, the speaker was not in accord with Dr. Hammond. The insane are not influenced by such motives as the sane are, and they should not be punished in the same way. It was said that their punishment might be required to keep others from crime. But he did not think that it could act in that way. The insane would not be able to feel the force of such examples.

In cases of trial the verdict should be on the question whether the person is sane or not, and on that alone.

Mr. G. H. YEAMAN said that to lawyers who were not often so deeply versed in insanity and physiology, there seemed to be a good deal of unnecessary refinement of terms among medical men. He did not see what was gained by using the term "reasoning mania." He had always thought that a lunatic was a man bereft of reason. He knew that there might be cases of partial insanity, just as a handkerchief may lose part of its whiteness. One may call such persons reasoning maniacs, but we do not gain any thing. The speaker thoroughly agreed with the view that Guiteau was not a man of perfectly sound mind, but he was amenable to the law because he knew the act he was doing was wrong. The speaker believed that the

OLD TEST OF RESPONSIBILITY,

which excused a man when he did not know right from wrong, was the test which would have to be kept and used in criminal courts. He thought that in persons who know the difference between right and wrong, a knowledge that they would be punished if they did wrong would have a tendency to prevent them from committing crime.

The speaker, in conclusion, repeated his objection to the term reasoning mania and to the unnecessary burden of names which the medical profession put on science.

Dr. E. C. SPITZKA said that he had been greatly interested in the question of Guiteau's mental condition, and had studied his case carefully. He had been invited to testify as an expert by counsel for both sides and had refused. He had learned several things from his experience with the Guiteau trial. He had learned that a medical man could be compelled to go three hundred miles, leaving his practice, going for a fee that would not pay his travelling expenses. He had also learned another thing that might interest all of the audience. There had been a prevailing delusion that an expert in insanity was a man who had made profound study of the anatomy, physiology, and pathology of the nervous system. In this, however, it seems there was a mistake. At Washington he found a

RECEIPT FOR MAKING EXPERTS

in insanity. Take a gentleman who has a line of medical practice

as far from insanity as could well be. Place him on board the cars to Washington with some lawyers, who put him through a series of questions. Then let him go on the witness-stand and answer to a set of carefully pre-arranged questions. Such an expert as this went on the witness-stand at Washington and coolly declared that there was no such thing as moral insanity. Yet in Bucknill and Tuke's work, which this gentleman quoted as a standard treatise on insanity, there are many references to moral insanity, and its existence is maintained there.

The speaker had made a careful examination and study of the mental state of Guiteau. He found him full of insanity.

The speaker referred to some of the facts which illustrated Guiteau's mental peculiarities. The term reasoning mania, used by Dr. Hammond, he thought was a bad one. He spoke of partial insanity, and said that there was no insanity of a single faculty of the mind, but there were some forms of insanity in which one part is much more affected than others. There were certain conditions in which the intellect was deranged, leaving the rest of the mind almost entirely sound; and, on the other hand, there were cases in which it is scarcely at all affected. The most proper term for Guiteau's insanity was a German one, and, as nearly as may be, is translated original insanity.

The speaker thought that Guiteau was born insane. His history was full of insanity. He (Guiteau) did not learn to speak until he was six years of age. He had a slight defect of speech, his father was unquestionably a lunatic, his mother was sick when Guiteau was born, and she had other children which were deformed or sickly. He gave some other facts regarding the history of Guiteau and then read a case of somewhat similar nature, which was reported in *Westphal's Archivs.* The case described was that of a man who had been born with a bright intellect, but absolutely no moral sense. He developed homicidal tendencies and was eventually confined in a lunatic asylum.

With regard to the question of the

RESPONSIBILITY OF GUITEAU,

he did not wish to speak positively, but he would be very slow to endorse the position of Dr. Hammond. The question here, he thought, was not one of retribution or punishment, but whether Guiteau was insane. The punishment of Guiteau or of lunatics he did not think would lessen the number of crimes per-

formed by them. After the murder of Garfield there was a number of attempts on the part of "cranks" to murder other prominent persons.

Dr. G. M. BEARD said that he agreed, for the most part, with what Dr. Spitzka had said, and with most of Dr. Hammond's views. He did not like the term reasoning mania, since all mania is reasoning mania, and the expression is, therefore, bad from the outset. He preferred the term affective monomania, the term used by Esquirol. It seemed to him that if we simply used the terms mania, partial mania, monomania, etc., we could get rid of all the trouble that Mr. Yeaman had referred to.

There is, strictly speaking, no mania that is limited to one faculty of the mind alone. He represented the term general mania by the hand, then the fingers would represent the different forms of monomania or partial insanity. He believed in the assertion that had been made that the mind was a unit. It was not possible to have any sharp demarcation of the faculties, and while there might be partial insanity affecting certain faculties chiefly, yet there is no form of insanity which affects one faculty absolutely alone.

We cannot have, therefore, a purely moral insanity. He would use the term monomania, however, because it is a familiar one, and indicates the special character of the disease.

In one point he differed entirely and strongly from Dr. Hammond. He held that it would be the greatest disgrace to hang Guiteau that could befall our nation. If he is hung, it would be because he shot a prominent man and had not power or money to defend himself as other insane criminals have had. It would be a return to the spirit of the Middle Ages.

The speaker described the way in which the experts at Washington decided upon the character of the testimony which they would give. They met together in a caucus, discussed the question of Guiteau's insanity, and decided to testify all in one way. The speaker said that he had seen Guiteau, had examined him carefully three times, and had been thoroughly convinced that he was insane. With regard to the punishment of Guiteau he thought that the only way to do it was to say that Guiteau was not insane. It would not do to punish him because he knew the distinction between right and wrong. A great many of the insane know this difference, and if we attempt to punish them on such a ground, great injustice would be done. It was very rare that the insane commit murder without knowing that it is wrong.

Moreover, it is a peculiarity of the insane that he often does the act because he knows it is wrong, and if it were the right and proper thing to do he would never attempt it.

The speaker thought that Guiteau knew the difference between right and wrong, but had a standard of his own which was not that of a sane man.

Dr. E. C. MANN spoke briefly, and agreed in general with the views that Dr. Hammond had expressed. He thought Guiteau was insane. He said that the prognosis in his case was very bad.

Dr. L. C. GRAY said that the principle of the Guiteau trial was an important one, although the question whether Guiteau is hung or not is unimportant. The object of the punishment was to prevent other men from committing crime, and the question is how we can do this in the case of Guiteau. To kill lunatics because they have attempted to kill others is very irrational, if we can get rid of them in any other way. All the forms of insanity which lead to crime, except transitory mania, are acknowledged to be incurable. Hence there would be no injustice in making a law confining insane homicides to asylums for life without power of release or pardon. Thus if we took such cases as Guiteau and consigned them permanently to asylums, it seemed to the speaker that we best solved the question of the punishability of lunatics.

Dr. LEWIS A. SAYRE said that he only wished to refer to the peculiar way in which the Guiteau trial had been conducted. He thought that Guiteau should have been examined by experts before the trial, and if he had been pronounced insane there need have been no trial at all. He should have been committed to an asylum for life, and we would have been spared the disgrace of the past few months.

Dr. HENRY said that he was not an expert in lunacy, but he had learned that gentlemen could be made experts in a few hours, and he thought that he might be induced to become one himself. He rather agreed with the views of Dr. Hammond in regard to the punishability of the insane. He believed in the old English doctrine. If a man committed murder knowing that he was doing wrong and would be punished, then such a person should receive punishment. He referred to the case of Walworth, in which he had been summoned with Dr. Hammond as an expert, and had testified that the man was not insane. He had, after the release of the prisoner, met him again, and the ex-pris-

oner had expressed his opinion that he (Dr. Henry) was a very good expert.

The President of the Society said that he would close the discussion with a few remarks, and referred to the opinions in regard to the responsibility given by the fifteen judges to Parliament.

Mr. SCOVILLE asked permission to make some remarks. He referred at once to the question of the

PUNISHABILITY AND RESPONSIBILITY OF THE INSANE.

He said that if the test laid down by the President and Dr. Hammond were carried out, three fourths of all the persons who are committed to lunatic asylums for crime would have to be hung, because three-fourths of the insane know the difference between right and wrong when they commit a crime. He thought that until the law was prepared to take such a radical step it could not afford to take such a position as Dr. Hammond's. If the ordinary legal test, as it now stands, was less unjust, it was because it could almost always be modified in special cases. He gave an example of an English judge who had recently tried a case in which the prisoner, though undoubtedly insane, knew the difference between right and wrong, and in which the judge modified his charge so that the jury brought in the verdict "not guilty on the ground of insanity." The man in this case had seized his sister, thrown her down, and attempted to cut her throat with a knife. He said that he had to do it because he wanted to be hung himself, and he knew it was wrong, and knew he would be punished if he committed the act. Now, in such a case, the man undoubtedly appreciated the nature of his act, and yet was just as undoubtedly insane. The speaker said that there were many other instances of a similar character, and it seemed to him unjust that any such doctrine as that upheld by the English law should continue to prevail. He referred to the fact that the doctrine had not been followed in many cases in this country. He said that he did not speak from any personal feeling, but that it was a matter of general importance to the whole country.

Dr. HAMMOND said, in conclusion, that in reply to Mr. Yeaman he would have to say that he was not responsible for the term

REASONING MANIA.

It had been used in the science of insanity for many years. Many medical terms were bad; but he did not wish to take the

responsibility of changing them. He thought the term was a good one. It had a different meaning from the term monomania. In regard to the responsibility and punishability of the insane, he said that all laws are made for the protection of society and have no other purpose whatever. They are not made for purposes of abstract justice, are not based upon the principles of abstract justice, but they are necessary to the protection of society. Now how are we to protect ourselves from the insane? He had found records of seventy-three criminals, who had been tried for murder, acquitted on the ground of insanity, discharged as cured of that disease, and then had perpetrated other crimes. He thought it all very well if they could be kept in insane asylums, but they must be kept there. At present our laws are not such that we can be sure that insane criminals can be kept in asylums, and we must discuss things as they are, not as they ought to be. As the law now is, an insane murderer can be acquitted on the ground of insanity, sent to an asylum, then discharged by the superintendent in twenty-four hours. If it were possible to keep them imprisoned for life that would be very well, but that is not possible now, so that he thought we should, in certain cases, take away the lives of these lunatics, doing it decently and without any disgrace. A man with a morbid impulse is like a tiger loose in society, and we may treat him very much the same way we would treat such an animal.

There is another point we do not know, whether a man has a morbid impulse or not. He may say he has one; but he may be lying. Nobody will be able to deny it. It may seem to be very cruel that these persons should be punished whether it be just or not. But all legal processes are attended with a certain amount of injustice. If they hang Guiteau injustice is done to his friends and relations. If any person is hung we must necessarily do some injustice to his family by bringing disgrace upon it. With regard to the assertion that the insane are not likely to be influenced by the punishment of a lunatic, he disagreed entirely. The whole government of lunatics in asylums is founded on the fact that a lunatic feels his responsibility and is influenced by rewards and punishment. The cases cited by Dr. Spitzka of the attempts to commit murder or other crimes immediately after Garfield's assassination are not to the point, because they were committed before Guiteau was condemned. We must wait until after Guiteau's punishment to see whether that punishment has any effect on other lunatics. The speaker related several instances

of morbid impulse. He endeavored to show that their possessors were responsible, and that, by making them feel their responsibility they would be restrained.

The Society then adjourned.

Special Meeting, April, 1882.

Discussion of Dr. J. G. Johnson's paper on "Anæsthetics medico-legally considered," with a brief abstract of the paper read at a stated meeting Dec. 7, 1881.

Mankind has in all ages and in all climes sought relief from pain.

Among the Egyptains was an art of producing sleep by inhalation.

Pliny describes a mineral brought from Memphis, which, when pulverized and mixed with sour wine, and applied to a wound, would destroy pain.

Baron Larry, after the battle of Eylau, found in the wounded who required amputations a remarkable insensibility, owing to the intense cold, this being the first use of cold as an anæsthetic.

Of all drugs known to the ancients, mandragora wine undoubtedly was the most potent and efficient. Apulius states that half an ounce of this preparation would render the patient insensible to even the pain of amputation.

But to our country and century is the world indebted for the discovery and application of anæsthetics for the purpose of rendering persons insensible under surgical operations. If America had contributed nothing more than this to the stock of human happiness, the world would owe her an everlasting debt of gratitude. The name of Morton, of Boston, will descend to posterity as benefactor of the human race, the benefaction he has conferred on suffering humanity in the relief of pain being as great a boon as those conferred by those other Americans, Fulton, who first applied the steam-engine to the navigation of vessels, and Whitney, who invented the cotton gin, have been to the material prosperity of the world.

Anstie, a celebrated English authority, has added immensely to the knowledge of the profession on this subject. He experimented on various animals, carrying the chloroform narcosis to death, and he invariably found in every animal that the ano-geni-

tal region was the last to give up its sensitiveness—that by irritating the ano-genital region he could produce a response when all other parts were so thoroughly narcotized that death was impending.

Anstie's precise language at the conclusion of his experiments is of interest: "The first effect on sensation which is noticeable is the removal or mitigation of any pain from which the patient suffers. This is often affected by one or two inspirations only. Evidence of paralysis of skin sensibility, on the other hand, could only be obtained in four patients during the first minute, and in the lower limbs. Before the end of the second minute, however, there was considerable paralysis of the whole skin surface in forty-seven out of fifty patients. The conjunctiva always retained sensibility later than the skin, with certain exceptions, presently to be noticed. In the great majority of instances, however, it was rendered insensitive by the time the contraction of the pupil was well marked (third stage). Certain portions of the skin and subcutaneous tissue, however, retain their sensibility with extraordinary tenacity: these are the matrix of the great toe nail, the margin of the anus, and the whole of the skin of the organs of generation. It is impossible to obliterate their sensibility without pushing chloroformization to a degree which greatly surpasses that required for ordinary purposes. This observation is confirmed by my experience with animals, and its importance cannot be too highly estimated, for it explains the frequency with which death has happened in the course of anæsthesia, induced for the performance of operations for phymosis, evulsion of the toe nail, hemorrhoids, etc. All kinds of fanciful reasons have been given for the fatality of chloroform in such trifling operations, but there is no doubt in my mind that this is the true one." —"Stimulants and Narcotics," by Francis E. Anstie, M.D., M.R.C.P. Philadelphia: Lindsay & Blackiston, 1865.

With this fact demonstrated, as it has frequently been by others since he brought it to the notice of the profession, the explanation of these grave charges made by females of respectability becomes easily enough understood. Those parts conveying sensations after all other parts have had the sensibility overpowered, the pressure of her clothing against the parts, stimulating them as she is struggling under the influence of chloroform, and her being held, naturally convey to her the idea of something wrong, not knowing beforehand that the effect of chloroform will make her struggle and resist, and that she may forcibly be held down.

When it does occur, and this sexual stimulation also occurs, the facts, to her mind, are overwhelming, that the restraint was for the purpose of sexual gratification ; and she testifies as she honestly believes.

Next to deaths in the dentist's chair comes the frequency of deaths from operations for piles and other operations of this kind about the rectum. When we recall the fact of the ano-genital region being the last to give up its sensitiveness we can well understand this result, because the boundary line between danger and death is so slight, that before the anus ceases to respond the patient is across the line of fatal narcosis. Again, the patient is rolled over very frequently for the surgeon's benefit, and thus there is danger of interfering with the abdominal respiration.

The question that was so exhaustively discussed by a former president of this Society, Stephen Rogers, M.D., has been renewed recently in our courts.

Dr. J. V. Quimby of Jersey City was called as a witness in the noted case of the murder of the policeman Richard Smith by his wife's paramour. She claimed that she was asleep in bed with her husband when the murder was committed, hence the blood on her underclothing. She was tried as a *particeps criminis*, the State holding her claim that she was chloroformed in her sleep to be an impossibility. Dr. Quimby was called as a witness. He knew nothing of the possibility of administering chloroform successfully while asleep. He tried it, and found that he successfully chloroformed three persons : one a man, the other two being boys, one of ten, the other of thirteen years of age. He took about seven minutes to chloroform the man. *Transactions of American Medical Association*, 1880.

The experiment has frequently been tried by experts since Dr. Rogers' paper, and it has been found that with children it can be done by a skilful hand after a little practice ; but with adults it is a matter of great difficulty, and unless the person who uses the chloroform is an expert, it is an utter impossibility.

For the dentist's chair nitrous oxide holds pre-eminence on account of the quick return to consciousness ; yet eight deaths from its use are already published. The same rule as to reclining posture and loose dress should be followed as with chloroform. It does also stimulate the sexual function of both sexes ; and the same precaution should also be observed to have third parties present.

One of the deaths from nitrous oxide was an English physician,

and it was administered by his own dentist, who agreed to make him snore before commencing. The administrator should never take his direction from the patient, but use his own enlightened judgment as to what is best for that patient.

Numerous other anæsthetics have been brought forward for public favor, but they have not yet passed beyond the region of experiment.

The following medico-legal points were made :

1. Anæsthetics do stimulate the sexual functions ; the ano-genital region is the last to give up its sensitiveness. Charges made by females under the influence of an anæsthetic should be received as the testimony of an insane person is. It cannot be rejected ; but the *corpus delicti aliunde* rule should be insisted on. Dentists or surgeons who do not protect themselves by having a third person present do not merit much sympathy.

2. Death from administration of chloroform after a felonious assault, unless the wounding was an inevitably fatal one, reduces the crime of the prisoner from murder to a felonious assault.

3. The surgeon has no right to use chloroform to detect crime against the will of the criminal.

4. The army surgeon has the right to use chloroform to detect malingerers.

5. The medical expert, notwithstanding he is sent by order of court, has no right to administer an anæsthetic against the wish of the plaintiff in a personal damage suit, to detect fraud.

6. Gross violations of the well-known rules of administering anæsthetics, life being lost thereby, will subject the violator to a trial on the charge of manslaughter.

7. A surgeon allowing an untrained medical student to administer anæsthetics, and life being thereby lost, will subject the surgeon himself to a suit for damages. What he does through his agent he does himself.

8. The physician who administers an anæsthetic should attend to that part of the work and nothing else. He should have carefully examined the heart and lungs beforehand. He should have the patient in the reclining position, with his clothes loose, so as not to interfere with respiration ; should have his rat-tooth forceps, nitrate of amyl, and ammonia, and know their uses, and when to use them and artificial respiration.

9. In operations on the ano-genital region and the evulsion of the toe nail, complete loss of sensation in these parts should never be allowed, and no operation on these parts at all should

be had under an anæsthetic unless by the approval of a full consultation, who have a knowledge of the dangers.

10. Chloroform cannot be administered to persons who are asleep without waking them, by a person who is not an expert. Experts themselves, with the utmost care, fail more often than they succeed in chloroforming adults in their sleep.

Another question I should have discussed should time have permitted, is whether a physician has the right to administer anæsthetics to mitigate death agonies. Take hydrophobia, for instance, when death is inevitable ; when the paroxysms of pain are frightful ; when the danger to the surgeon in the administration in the ordinary way is extreme. Has he any right to alleviate this suffering, when the patient may pass away suddenly from the chloroform? A few years ago, a clergyman was convicted of murder in the second degree in England. He was a missionary among the poor in London, and when he found them with cancer and other incurable diseases, and without the means to obtain necessaries for their comfort, at the sick person's request he would administer a dose of morphia sufficient to carry them off, and he was transported for life as a convict for thus relieving incurable suffering. Would the physician who intentionally administered chloroform enough to a hydrophobic patient to cut short his suffering come under the same rule ?

Discussion on Dr. Johnson's Paper.

Dr. FINNELL opened the discussion. Referring to the question of the administration of chloroform without the patient's knowledge, he expressed the belief that this was impossible.

Dr. GIRDNER argued at some length against the possibility of anæsthetizing a sleeping subject without awakening him. He related the result of some experiments lately instituted by himself with a view of testing this question, and stated that in each instance the subject awoke with a slight cough and indications of alarm.

Dr. MORTON being called upon by the Chair for remarks, thanked the reader of the paper for the graceful allusion to his father's services to humanity in giving to the world the discovery of practical anæsthesia.

Any exhaustive discussion of the paper would be beyond the limits of the time and patience of the Society, and he would therefore confine himself to one or two points. The reader apparently

used the term chloroform in his paper in a sense synonymous with anæsthetics—as if this agent were that one most employed. This was a little misleading, for chloroform is but very little used in this country; and in England and on the Continent there has been, on account of its danger, and the decided reports of scientific societies against it, an enormous decrease in the frequency of its use. The choice of an anæsthetic seemed to the speaker perhaps the most important medico-legal point after all. The present year, 1882, begins with an appalling list of deaths from chloroform. At the same time severe expressions of condemnation of its use are frequent. Indeed it is always a "toss up" with death when we use chloroform, and it is not carelessness in administration that kills—it is chloroform. Speaking of its use, a distinguished surgeon says: "It is criminal and it is unscientific, and so much so as to justify the stern interference of the law." Since the relative safety of ether might be considered demonstrated he hardly saw why chloroform was used. True, chloroform had advantages in agreeableness and amount. As to rapidity there was little difference to be seen in the practice of surgeons. Ether, on the other hand, has a somewhat disagreeable smell—but, as some writer has remarked, which is the more disagreeable, the unpleasant smell of ether or the corpse from chloroform? Chloroform, according to statistics, and we all know how many deaths are not recorded, is stated to be eight times more dangerous than ether. Richardson places the death rate from chloroform at 1 in 2,500; Andrews, that from ether at 1 in 43,000. Chloroformists are blind to the weight of scientific evidence against this agent.

The Royal Medical and Chirurgical Society of England, about 1872, adopted a report that ether was less dangerous than chloroform; this they reiterated in 1874, and so recently as 1880 a distinguished committee of the British Medical Association, after occupying three years in exhaustive investigation, states that "as regards comparative danger the three anæsthetics may be arranged in the following order: chloroform, ethidene, ether." "The advantages which chloroform possesses over ether" * * * "are more than counterbalanced by its additional dangers."

At St. George's Hospital in London the report in 1875 was "no anxiety with ether." Prof. Schiff, of Florence, regards chloroform deaths as unavoidable. He uses ether in his experiments upon animals, since with this agent the animal may be safely carried to the very last stage of insensibility, while with chloroform the ani-

mal is easily killed. Dr. Snow, a distinguished authority, believes a death from ether to be almost impossible. Dr. Ormsby states that in the various hospitals of Dublin very few surgeons use chloroform.

Dr. MORTON brought forward these points to correct the impression created by the paper in regard to the prevalence of the use of chloroform, for in this point was involved to a great extent the question of the right of choice of an anæsthetic, since the physician's liability, from a legal point of view, depended upon his accordance with or divergence from orthodox practice. To the speaker's surprise on examining some reports made by Dr. H. McNaughton Jones in 1876, it appeared that ether was used in a greater number of hospitals in Great Britain than chloroform was. For instance, out of a total of 43 hospitals, 20 used ether alone, 13 used chloroform alone, and 10 used both chloroform and ether.

The school at Lyons, France, had used ether from the beginning. From this and much other evidence the speaker believed that there was a rapidly-growing feeling that the surgeon must be legally responsible for the effect of any anæsthetic he may give. The day would undoubtedly soon come when there would be a general adoption of a law similar to that of the Massachusetts Dental Society which declared that any one using chloroform to produce surgical anæsthesia is guilty of a misdemeanor.

Will not a future jury say? If ether is safe and known to be, chloroform death-dealing and known to be, this practitioner has killed this patient and is guilty of manslaughter, and there is true criminal responsibility.

Mr. ELLER thought that it was not admissible to administer anæsthetics against the subject's will for the purpose of obtaining legal evidence, and equally unjustifiable to use these agents in the army to ascertain whether a soldier was a malingerer.

Dr. LEALE had once used chloroform, but after witnessing a death from it had since used ether. In case of accident he believed that a surgeon who used chloroform would be held more responsible than one who used ether. In his opinion, a sleeping subject could be anæsthetized without awakening.

Mr. RIDDLE held that evidence obtained by the use of anæsthetics would be inadmissible in a court of law. There was no need of any statute to regulate the use of anæsthetics by physicians. Common law would justify the practice that

was justified by the skill and knowledge of physicians. When physicians were ready to say that they were certain of the facts in the case, the law would protect them.

Dr. BERMINGHAM thought the question of the possibility of administering anæsthetics to sleeping persons had not yet been satisfactorily determined. In regard to the fatality of chloroform his experience had been unfortunate. He had once administered it to a child 5 years old, and in less than a minute the child was dead. Another of his patients, a woman, had been killed equally quickly by chloroform administered by a skilled surgeon. He had never since used chloroform.

Mr. CLARK BELL quoted some further statistics in regard to the relative fatality of anæsthetics.

Mr. MILLER thought that it would have no effect in the consequences to Guiteau if President Garfield had died from the effects of anæsthetics. He considered no doctor justified in using chloroform.

Ex-Surrogate CALVIN remarked that the use of the most dangerous anæsthetic places the physician in great danger in regard to his civil and criminal liability. A physician cannot differ from the general practice of his brethren and fail; he is then liable. Since ether was safer than chloroform, the physician who used the latter placed himself in a position of dangerous personal liability. He follows his own opinion at his own risk. Evidence obtained by forcible administration of anæsthetics was inadmissible in a court of law.

Mr. BRIGGS maintained the right to obtain legal evidence by forced administration of anæsthetics. Society had the right to protect itself by any means at its command. If the right existed to examine without anæsthetics, we certainly have the right to administer anæsthetics forcibly. If this can be done in the interests of the army, why not in the interest of the public at large? Shall a woman, for instance, in a criminal trial, say that her person is sacred and that her word must be taken.

Judge HULL expressed the view that in certain incurable diseases, accompanied by great suffering, the physician would be justified in giving an anæsthetic to shorten life. It is not possible, probably, to frame a law to this effect, since it would be liable to abuse; but in such a case he would appeal to a higher law, viz.: "All things whatsoever ye would have done unto you, that do to others."

Dr. SPITZKA thought, as did many of his profession, that

Judge Hull's view was correct, both from a utilitarian and from a humane point of view.

Dr. LEO considered chloroform dangerous to young and old.

Dr. SAYRE, the younger, objected to the general denunciation of chloroform. He did not think it was dangerous; on the contrary, he thought that it was safer than ether. In his experience with chloroform he had never seen a death from it.

Dr. MORTON inquired if it was not an extraordinary argument that each chloroformist must "kill his man," so to speak, before being willing to see any danger in his preferred anæsthetic. According to this the experience of others and the science of the times had no value.

Dr. JOHNSON, in closing the discussion, remarked that the whole question of which anæsthetic should be used was settled by this fact: chloroform kills without warning, ether does not; therefore the physician is criminally responsible who uses chloroform. The physician who pursues a course of treatment no longer orthodox is in the same position as one who meditates a homicide. This is the law upon this point. Dr. Johnson moved that a committee be appointed to formulate rules to govern the administration of anæsthetics.

After a vote of thanks to Dr. Johnson for his very able and interesting paper, the meeting was adjourned.